

A.G. Contract No.: KR05-0455TRN
ECS File No.: JPA 04-008
Project No.: N/A
Section: SR 89 View Point Drive
Project: Traffic Signal
TRACS No.: H6549 01C
Budget Source Item No.: Prescott
Maintenance Funds

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF PRESCOTT VALLEY

THIS AGREEMENT is entered into this date June 23, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF PRESCOTT VALLEY, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

3. The parties hereby agree to and acknowledge the following conditions: a) The estimated monetary amounts referenced in this Agreement are subject to possible substantial change before project completion; b) The parties shall perform their responsibilities consistent with this Agreement; and c) Any change or modification to the Project will only occur with the mutual written consent of the parties.

4. The State and the Town desire to participate in the design, construction and maintenance of roadway improvements on View Point Drive and State Route (SR) 89A. The roadway improvements consist of constructing an additional Northbound through lane and a right turn lane on View Point Drive between Addis Avenue and the SR 89A Northbound Off Ramp, hereinafter referred to as the "Project". The Town will design and construct the Project and the State will maintain the portion within State's right-of-way.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27570
Filed with the Secretary of State
Date Filed: 6/23/05
Janice K. Brewer
Secretary of State
By: David Prescott

II. SCOPE OF WORK

1. The Town shall:

a. Prepare and provide to State Standard's design plans, specifications and other such documents and services required for construction bidding and construction of the Project, and submit same to the State for concurrence.

b. Advertise for bids and award one or more construction contract(s) for the Project. Administer contracts for the Project and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by Project delays attributable to the Town.

c. Obtain an "Encroachment Permit" through the Prescott District Permit Office for the construction of the Project.

d. Conduct all construction work in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Manual on Uniform Traffic Control Devices.

e. Be obligated to incur any expenditure should unforeseen conditions or circumstance increase the cost of said work necessitated by a change in the Project's Scope of Work, (such additional costs requiring prior approval of the State). All costs attributable to any engineering change orders requested by the Town shall be the sole responsibility of the Town.

f. Upon completion, approval and acceptance of the Project and on behalf of the parties herein, provide electrical energy to operate the signal, at the City's expense.

g. Upon completion of the Project, invoice the State for an amount not to exceed \$100,000.00 for its portion of the Project.

2. The State shall:

a. Review the design documents required for construction of the Project, and provide comments to the Town as appropriate.

b. Require the Town to apply and receive approval for an "Encroachment Permit" for construction of the Project.

c. Upon completion and acceptance of the Project, be responsible to maintain the Traffic Signal.

d. Upon completion of the Project, receipt and approval of an invoice, remit to the Town an amount not to exceed \$100,000.00 for its portion of the Project.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement for the design and construction of the Project beyond the payment in Subsection II (2)(d) above.

2. The Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the Town, and of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorney's fees.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

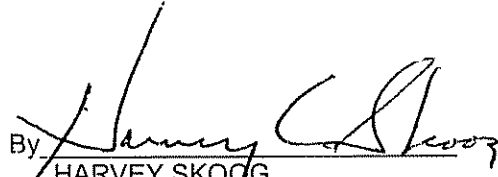
Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

Town of Prescott Valley
Attn: Larry Tarkowski
7501 East Civic Circle
Prescott Valley, AZ 86314
(928) 772-9207

10. Pursuant to Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

TOWN OF PRESCOTT VALLEY

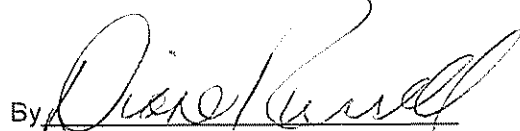
By 
HARVEY SKOGG
Mayor

STATE OF ARIZONA

Department of Transportation

By 
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

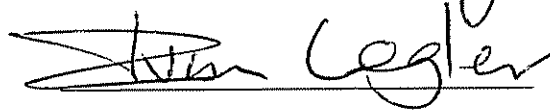
By 
DIANE RUSSELL
Clerk

JPA 04-008

APPROVAL OF THE TOWN OF PRESCOTT VALLEY

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF PRESCOTT VALLEY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the TOWN under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 27th day of May, 2005.



Town Attorney

RESOLUTION NO. 1356



A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE TOWN OF PRESCOTT VALLEY FOR CONSTRUCTION OF THE VIEWPOINT DRIVE AT STATE ROUTE 89A IMPROVEMENTS PROJECT, CIP # S26 2; AND AUTHORIZING THE MAYOR (OR IN HIS ABSENCE, THE VICE-MAYOR) TO EXECUTE SAID INTERGOVERNMENTAL AGREEMENT; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL TO LAW.

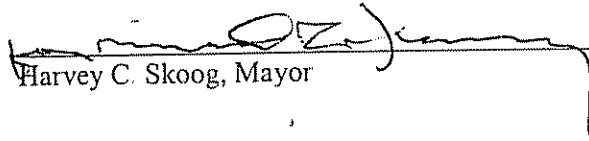
WHEREAS, the Town Council at its regular meeting of May 26, 2005 hereby approves the Intergovernmental Agreement between the State of Arizona and the Town of Prescott Valley with regard to CIP #S26 2; and

WHEREAS, ADOT requires that all Intergovernmental Agreements to fund these types of projects must have a Resolution of the Mayor and Common Council committing to the proposed project; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

1. That the Mayor and Common Council hereby approve the Intergovernmental Agreement for the construction of the Viewpoint Drive at State Route 89A Improvements Project, CIP # S26.2; AND authorize the Mayor (or in his absence, the Vice-Mayor) to execute said Intergovernmental Agreement.
2. That the Mayor and Common Council hereby commit to funding for the Town's share of this Project as outlined in the Intergovernmental Agreement. The budgeting of this funding will occur in the fiscal year for which the project expenditures are expected to occur.
3. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 26th day of May, 2005.


Harvey C. Skoog, Mayor

ATTEST:


Diane Russell, Town Clerk

APPROVED AS TO FORM:



Ivan Legler, Town Attorney

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION**

Date: May 26, 2005

SUBJECT: Intergovernmental Agreement with ADOT Funding Viewpoint Drive at SR 89A Improvements Project, CIP # S26.2

SUBMITTING DEPARTMENT: Public Works

PREPARED BY: Kimberly J. Moon, P.E., Capital Projects Coordinator, for
Norm Davis, P.E., Public Works Director

AGENDA LOCATION: Comments/Communications ☐, Consent ☐, Work/Study ☐,
New Business ☒, Public Hearing ☐, Second Reading ☐

ATTACHMENTS: a) Resolution No. 1356
b) Intergovernmental Agreement, JPA 04-008

SUMMARY BACKGROUND: The Approved Budget for Fiscal Year 2004/2005 includes the Viewpoint Drive at SR 89A Improvements Project, CIP # S26.2. ADOT has previously identified the need to improve the south leg of Viewpoint Drive at its intersection with SR 89A due to rush hour traffic congestion and is providing partial funding in an amount up to \$100,000.00. To receive this reimbursement from the State, the work must be completed by June 30, 2005. The project engineer, Claycomb-Rockwell Associates (CRA), has prepared the design. The construction contract for this project was awarded to Asphalt Paving & Supply, Inc. at the Council meeting of May 12th, 2005. Construction is anticipated to be completed by June 30th.

The Town has complied with the State requirements for the design and bidding as outlined in the Intergovernmental Agreement. This action is for approval of the Intergovernmental Agreement and associated Resolution for reimbursement of up to \$100,000.00 from the State for construction costs.

This item addresses the Council's Management Action Plan goal of improving the infrastructure by upgrading the quality of the existing streets, utilities, drainage, parks and facilities for a more efficient Town infrastructure system.

PREVIOUS ACTIONS:

- On May 12, 2005, a Contract was awarded to Asphalt Paving & Supply, Inc., as approved by Council for the construction of this project in an amount up to \$109,953.00 and Council authorized the Town Manager and the Town Engineer to approve change orders up to 10% of the contract amount. In the same action, an Amendment to the Engineering Agreement with Claycomb-Rockwell Associates, Inc. was approved by Council for additional bidding services in an amount up to \$1,170.00.
- On April 14, 2005, bid(s) received on March 31st for this project were rejected by the Council due to being "unresponsive". Staff immediately re-bid the project in an attempt to accelerate the schedule that was delayed due to the necessity of re-bidding.
- On March 24, 2005, a new Agreement with Claycomb-Rockwell Associates, Inc. was approved by the Council for construction administration services for this project in an amount up to \$18,800 with an expiration date of June 30, 2007. (The previous agreement had expired and therefore could not be amended.)
- On January 15, 2003, an Agreement for Engineering and Other Services with Claycomb-Rockwell Associates, Inc. was approved by the Town Manager for design of this project in an amount up to \$12,300.00 with an agreement expiration date of December 31, 2004.

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OPTION ANALYSIS: The Council may vote to:

- 1.) approve the IGA by resolution, **OR**
- 2.) not approve the IGA by resolution, **AND** direct staff to pursue other options.

ACTION OPTION: Motion to authorize the Mayor (or, in his absence, the Vice Mayor) to sign Resolution No. 1356 approving the Intergovernmental Agreement # JPA 04-008 between the Town of Prescott Valley and the State of Arizona for ADOT to fund up to \$100,000.00 for the Viewpoint Drive at SR 89A Improvements Project, CIP # S26.2, **OR** Motion not to approve Resolution No. 1356. **VOTE.**

RECOMMENDATION: Staff recommends authorizing signature of Resolution No. 1356 approving this IGA with ADOT.

FISCAL ANALYSIS: The Fiscal Analysis is shown in Table 1 below:

Table 1

Viewpoint Drive NB Turn Lane at SR 89A, CIP # S26.2			
HTE Code: 202-5510-700.73-40		Finance Proj. # CS0501	
FISCAL YEAR 2004/2005	Approved Budget:	\$200,000.00 < (incl. this IGA)	FISCAL YEAR 2004/2005
	Expended & Encumbered:	(\$130,910.63)	
	Construction Contingency:	(\$10,995.30)	
	Balance:	\$58,094.07	

REVIEWED BY:

Management Services Director William Kupp Town Clerk Dee Russell

Town Attorney [Signature]

Town Manager [Signature]

COUNCIL ACTION:

☐ Approved ☐ Denied ☐ Tabled/Deferred ☐ Assigned to _____



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

TERRY GODDARD
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0455TRN (**JPA 04-008**), an Agreement between public agencies, i.e., *The State of Arizona* and *The Town of Prescott Valley*, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: June 16, 2005

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis".

Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
910093